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## **Tightening the Grip on the Slippery Pole: The Globalisation of Control from the New World Order to the War on Terror.**

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The Iraqi referendum has been great news for the US, which has been very short on good news since it invaded the country 2,000 American lives and heaven knows how many Iraqi lives ago. It is the closest they have got to a retrospective rationalisation of the invasion that alienated them from many of their close allies and attracted widespread condemnation around the world. But it falls far short of a genuine justification because it was not the reason for attacking in the first place. The rationale for the invasion was that Saddam Hussein's stockpile of weapons of mass destruction was a threat to the security of the entire region.

Critics doubted these claims and UN inspectors could not verify them. Still the US and its allies insisted they were absolutely true and acted accordingly. The US was eventually forced to concede that not a single WMD was found, let alone stockpiles of them.

The whole sorry affair raises a number of significant questions that will be explored in this paper. First, there are the issues of the accuracy of the intelligence upon which the US and its allies rely, and also about the nexus between those who generate the intelligence and those who deploy it to advance their political aims. These are matters that go to the heart of the War on Terror. It also raises issues about the genuine significance of weapons of mass destruction, a term in constant use before the invasion that has barely rated a mention since. It also raises questions about the relationship between fighting military wars and the more multi-dimensional and metaphorical war on terror. There is also the issue of the nature and strength of various alliances among the parties to the war on terror, an issue that will be discussed with reference to New Zealand, a country well down the military intelligence food-chain.

### **A New World Order**

A useful starting point in addressing all of these issues is the end of the Cold War. No sooner was it over than the US, as self-appointed captain of the winning team, set out to define and demonstrate the dimensions of the post-Cold War world. It would be enforced by alliances of freedom-loving

nations with the capacity to collectively deploy irresistible military force against any rogue state that violated the global consensus.

Iraq was the first country to present itself as eligible as a subject for demonstrating what this entailed. Former US ally, Saddam Hussein, did what so many other US allies have been allowed, or even encouraged to do in the past; he invaded a weaker neighbour. The US response was to convene a broad coalition of nations and launch a devastating attack on Iraq.

The media build-up to the war showed frightening statistics and graphics about Iraq's military might. The main feature, broadcast live but filtered through military censors, was called Desert Storm and lasted just 100 hours. The best Iraq could manage was to lob a handful of inaccurate skud missiles with conventional warheads as far as Israel.

This assault was a turning point in world history; the first military engagement by the US and its allies since the end of the Cold War. The authority of the civilised world, we were told, was so overwhelmingly stamped on an outlaw state that it ushered in a new era; one that US President George Bush the First called a "New World Order". The confidence of America and her allies was reaffirmed in Kosovo where Slobodan Milosovic (who had replaced Saddam Hussein as the rogue leader) saw his Serbian army routed by a NATO force.

These wars showcased a new generation of smart bombs and delivery mechanisms. These weapons systems were able to penetrate defences and deliver massive destructive capacity over very long distances with extraordinary accuracy at minimal risk to the attacking forces. Significantly, they also demonstrated that the US could inflict massive destruction without resorting to nuclear or chemical weapons<sup>1</sup>, which would have caused far greater political fall-out among the citizens of the attacking countries. This had the potential of being the equivalent of lethal injection for death-penalty advocates; a clinically effective means of achieving what might otherwise be very messy.

This New World Order of global enforcement meant, as George Bush I put it, that 'what we say goes'. However, just as superbugs emerged following the creation of ultra-sterile environments, this new world order provided the context for the emergence of serious new threats. One of these is the growing importance of weapons of mass destruction. Another is the emergence of non-state political entities.

Operation Desert Storm demonstrated conclusively that the US would win quickly and decisively any war between nation states or groups of countries in which neither side used nuclear, biological or chemical weapons. It defined its high-tech integrated systems of devastating weapons as 'conventional' but they were far superior to anything even mid-rating military powers could muster. When this is combined with the apparent US eagerness to pursue its foreign objectives through military means, countries that might feel themselves vulnerable to US attack would see acquiring weapons of mass destruction, say a crude nuclear bomb, as a far more achievable aim than developing an equivalent to the US integrated smart-bomb systems.

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<sup>1</sup> I am ignoring for the purposes of this article, the important issue of the use of depleted uranium in armour-piercing armaments.

Thus the new world order significantly heightened tensions around weapons of mass destruction. It increased the incentive for countries without WMDs to acquire them, and it made the US and its allies all the more determined to prevent them from doing so.

The other lesson for those who sought to resist the New World Order was to do on a global scale what various groups of guerrilla fighters have done in many national or regional conflicts. That is, they learned to change the terrain of battle and the rules under which to fight it by developing politico-military entities outside the nation state. They announced themselves in a chillingly audacious manner with the airliner attacks on the US on 11 September 2001. The spectre of Al Qaeda, previously most notorious for being implicated in the embassy bombings in Africa, had struck at the heart of the US with a callous disregard for civilian casualties.

The US reprisal attack on Afghanistan quickly ousted the Taliban, which appeared to have close ideological and logistical connections with Al Qaeda. But it certainly did not destroy Al Qaeda, and neither could it. Al Qaeda adapted to the New World Order and had organised itself to enable it to exploit the vulnerability of its enemy while not exposing itself to its enemy's military might. What Al Qaeda also did, however, was to give the architects of the New World Order a golden opportunity to extend and enhance their power and influence. George Bush II seized the opportunity and declared the War on Terror.

## **The War on Terror**

The War on Terror was deemed essential to defend freedom and democracy from those who threatened it. From the moment it was declared, counter-terrorism has become the organising principle for a world-wide resurgence in national security rhetoric and policies. The War on Terror has provided an ideal replacement for the Cold War, as the orientation and focus of military, intelligence and security activities on a global scale.

As a global phenomenon, it has clear parallels with the Cold War. The reds may have moved out from under our beds, but the muslim extremists are now sitting next to us in our planes and trains. As with the Cold War, War on Terror rhetoric decrees that there is no room for neutrality. Everybody is on one side or the other, and anyone who advocates caution or moderation on the part of those who are directing the War on Terror can be dismissed as playing into the hands of the terrorists.

In other respects, the War on Terror has an even greater capacity than the Cold War to shock citizens into submission. Three examples come to mind. First, while Cold War rhetoric relied on the *threat* of Soviet aggression, the kinds of acts of terror that the world has seen in recent years regularly demonstrate the readiness of the War on Terror 'enemy' to generate carnage in a chillingly ruthless manner. Factor in the prospect of terrorist groups obtaining nuclear weapons and the fear factor multiplies again. Second, the increasingly integrated globalised world coupled with the modus operandi and transnational existence of networks like Al Qaeda, add considerable weight to the argument that those who seek to deter terrorism are only as strong as its weakest link. As New Zealand's Prime Minister, Helen Clark, told the Pacific Roundtable on Counter-Terrorism last year,

‘remoteness, peacefulness and even neutrality or non-alignment do not guarantee security from terrorists’. Thirdly, although the Cold War lasted for decades, the War on Terror is potentially permanent. This inherent permanence is derived not just from the fact that nobody could ever give a credible assurance that the world will never see another terrorist attack. More fundamentally, it is because in every previous war there were two or more sides that made demands of each other; some ultimatum that must be met for hostilities to cease. So every war has had at least the potential to have, an end. The ideological value of the War on Terror is largely a function of its insolubility because it legitimizes a permanent state of insecurity.

Widespread feelings of insecurity combined with talk of war evoke powerful emotions in people. In wartime, people often compromise some civil rights to strengthen the power of the state to act against the enemy. To the extent that they accept the legitimacy of the war and have confidence in those arms of the state that are directing it, people are prepared to suspend rights that they might otherwise consider non-negotiable. In ‘normal’ wars, however, part of the equation is that the war is viewed as inherently temporary and citizens agree to surrender their rights to the state for the duration. Notwithstanding the odd sunset clause, there is a sense of permanence about the rights that are being removed in the name of the war on terror.

The evil of terrorism is used as the justification for these rights being removed. However, there is an accompanying danger that, once they are compromised for one category of evil person or deed, these rights are no longer inalienable. The question then arises as to what other comparably evil person or deed should be treated similarly.

Few would dispute the New Zealand Prime Minister’s view that the legislative contribution to the War on Terror should aim to ‘strike the right balance between maximising individual freedom and maintaining a secure environment’, or her warning that these responses ‘can all too easily cross the line from being a tough but acceptable response to becoming something which undermines basic freedoms’. The devil, as the British Prime Minister was reminded of recently, is in the detail.

## **New Zealand’s War on Terror**

In the lead-up to this year’s New Zealand general election, the leader of the conservative National Party, Don Brash, was asked whether he would have participated in the invasion of Iraq, had he been Prime Minister at the time. He initially refused to answer the question. Twenty-four hours later he recognised that he had to give an answer, and admitted that he probably would have joined the invasion. National also went to considerable efforts to downplay or deny government officials’ notes from a meeting at which Dr Brash was reported to have assured US officials that, under his leadership, New Zealand’s nuclear-free policy would be ‘gone by lunchtime’.

On other policy platforms, the National Party and its leader were quite unequivocal. They said, for example, that they would abolish separate Maori seats in parliament and radically cut taxes. Their difficulty in the areas of foreign policy, security and defence was that their preferred positions are ones that they know to be electoral liabilities. Labour, by contrast, was comfortable defending its

record of maintaining the anti-nuclear policy it introduced in the 1980s and refusing to participate in the invasion of Iraq, and it relished the opportunity to debate National on this terrain.

When it comes to the war on terror and matters of intelligence, however, there is almost nothing to separate the two parties. Labour has been an enthusiastic participant in enlisting New Zealand in the War on Terror and encouraging those smaller Pacific Island states over which New Zealand exerts considerable influence to do the same<sup>2</sup>. This was something it was at pains not to do with respect to New Zealand's anti-nuclear stance.

New Zealand's only direct experience of terrorism in recent decades was the bombing by its supposed ally, France, of the Greenpeace flagship the Rainbow Warrior in Auckland in 1985. The perpetrators were apprehended as a result of a normal criminal investigation conducted by the police. With New Zealand refusing to participate in the US invasion of Iraq, New Zealanders are less likely to be directly targeted by groups like Al Qaeda than their counterparts in the US, UK or Australia and so levels of fear of terrorism are probably lower in New Zealand than in other countries. Nevertheless, the New Zealand government moved quickly to legislate as part of the War on Terror, passing the Terrorism Suppression Act 2002 (and its 2005 Amendment), the Counter-Terrorism Act 2003, and the Border Security Act 2004.

These statutes are based on a very broad definition of terrorism and empower law enforcement agencies to act without warrants in certain circumstances. However, as a result of public submissions during the passage of this legislation, New Zealand has ended up with provisions that are far less repressive than exist or are contemplated in many other countries. They do not, for example, permit internment without trial or remove suspects' rights to remain silent. Nevertheless, New Zealand's response does follow the general pattern of greatly enhancing the scope, powers and resourcing of intelligence and security agencies. In doing so, the new provisions continue a process that predates the declaration of the War on Terror.

## **The Anti-APEC Activists and the Algerian Refugee**

The first significant move in this direction was the 1996 amendment to the New Zealand Security Intelligence Service Act. In the first change since the end of the Cold War, this amendment broadened the purview of the Security Intelligence Service (SIS) beyond subversion and terrorism to include such nebulous notions as 'threats to New Zealand's economic well-being'. Critics claimed that this was a recipe for political harassment of groups or individuals who contested the neoliberal economic model that had been imposed in New Zealand since 1984. The reply was that such fears were groundless and that the provisions were necessary to enable the SIS to monitor and prevent acts of economic sabotage. Moreover, the simultaneous establishment of an Inspector-General of Intelligence and Security was presented as a mechanism to provide oversight and public accountability of the SIS.

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<sup>2</sup> To this end, it has committed ongoing funding of \$3million per year to a Pacific Security Fund.

Less than two weeks after the Act became law on 1 July 1996, it was put to the test. On 13 July 1996, two people who were later identified as SIS agents were caught breaking into the home of Aziz Choudry, a prominent opponent of free trade who was organising a counter-conference to the APEC Trade Ministers' meeting that was being held in Christchurch. A few days later, the person who caught them, who was also a speaker at the counter-conference, had his home raided by police looking for bomb-making equipment.

Their joint complaint was the first to be heard by the newly-appointed Inspector-General, a retired High Court judge. His report found no fault with the Police or the SIS and would not even confirm what were then still only suspicions of SIS involvement. He simply concluded with an assurance that he had investigated the matter and was satisfied that 'no law had been broken'. Subsequent civil actions resulted in findings against both the SIS (*Choudry v Attorney-General* 1995)<sup>3</sup> and the Police (*Small v Attorney-General* 1996)<sup>4</sup> and significant payments of damages. The High Court found that the Police had failed to distinguish between political and criminal activity. This series of events fuelled public suspicions of the political bias, incompetence and disregard for the rule of law on the part of New Zealand intelligence agencies, and the lack of genuine oversight and accountability that the Inspector-General provided.

The other significant piece of pre-2001 legislation concerning intelligence agencies was the 1999 amendment to the Immigration Act. This provided for the issuing by the SIS of a Security Risk Certificate for foreign nationals entering the country who were deemed to be a threat to national security. It was introduced almost unnoticed and certainly without extensive critical comment but, as with the SIS amendment, it came in for close scrutiny the first time it was applied.

Ahmed Zaoui is an Algerian cleric who held a position of responsibility in the FIS, whose first round win in the 1991 elections was annulled as the military took power. He fled the country and eventually, in December 2002, arrived in New Zealand and applied for refugee status. Acting on intelligence received from the French and/or Algerian governments, the SIS took an intense interest in him. Without access to proper legal counsel or neutral translation, Mr Zaoui was the subject of extensive interviews, some of which were covertly video taped<sup>5</sup>.

On the strength of a report produced by the threat assessment unit of the Police, Mr Zaoui was kept for ten months in solitary confinement in a maximum security prison. The Police gave three reasons for their recommendation. The first was an assertion that Mr Zaoui was a member of the paramilitary group, GIA, a claim whose sole source was a website whose other outrageous theories include one about Queen Elizabeth being a big-time drug smuggler. The other two arguments were that Mr Zaoui might use lawful means to try to stay in New Zealand, and that he may generate support amongst the New Zealand public for his plight.

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<sup>3</sup> For details, see <http://www.converge.org.nz/watchdog/92/3aziz.htm>

<sup>4</sup> For details, see <http://www.converge.org.nz/watchdog/94/7david.htm>

<sup>5</sup> The existence of the tapes did not come to light until months after they were recorded. They were then mysteriously lost by the authorities and not rediscovered until after the Prime Minister demanded that their loss was unacceptable.

In March 2003, the Director of the SIS issued a Security Risk Certificate against him. In doing so, the SIS chose to issue it not in line with s73 of the Immigration Act that dealt with terrorists or supporters of terrorism, but under the more nebulous s72 concerning national security, that is,

“the protection of New Zealand from activities within or relating to New Zealand that are 1) influenced by any foreign organization or any foreign person; and 2) are clandestine or deceptive, or threaten the safety of any person; and 3) impact adversely on New Zealand’s international or economic well-being”.

New Zealand’s intelligence and security agencies were expecting that Mr Zaoui would be processed and sent out of the country within a short period. Their plan started to unravel when, in August 2003, the Refugee Status Appeals Authority granted his application for refugee status. The Authority described him in their ruling as:

“an articulate, intelligent, committed and principled individual who, despite the hurdles placed before him over the last ten years, remains a passionate advocate for peace through democracy in Algeria”.

Although the SIS was not able to present the ‘classified security information’ it held on Mr Zaoui, the evidence it did present against him was roundly criticised by the Authority, which found that the case against him was based on gossip, innuendo, unsubstantiated media reports and questionable websites. Their view of the SIS in this case corresponded with comments reported two months later in the *Guardian* (2 October 2003) from a former UK ambassador, Sir Peter Heap, who suggested that

“the whole system of intelligence gathering is all too often prone to producing inadequate, unreliable and distorted assessments, often at considerable cost... Very rarely is intelligence material subject to the same scrutiny, verification and testing as information governments receive from other sources.”

Despite having refugee status, Mr Zaoui’s hopes for remaining in New Zealand rest on his appeal against the Security Risk Certificate that is being considered by the discredited office of the Inspector-General of Intelligence and Security. In the meantime, he has been released from detention into the care of an order of Dominican friars, from where he is realising one of the initial fears of the Police by becoming something of a cause celebre. This is a significant turnaround given that the New Zealand media initially accepted the Zaoui case as one of the SIS catching a terrorist before he was able to establish himself in our midst.

## **Intelligence, Accountability and Leaps of Faith.**

The cases of the anti-APEC activists and the Algerian refugee have put under public scrutiny two essential elements of the War on Terror: the integrity of the intelligence agencies which are being given an ever wider mandate and extra powers and resources; and the nexus between those agencies and the elected representatives of New Zealanders to whom they are supposed to be accountable. These are the same dynamics at play and questions that were raised by the WMD issue at the time of the invasion of Iraq.

Politicians make an assertion. They then give assurances to the public that this assertion is based on evidence provided by intelligence agencies that is compelling but cannot be publicly disclosed. The citizens are required to trust the intelligence agencies to provide only information that is reliable, and to trust the politicians to scrutinise the intelligence agencies on their behalf and use with integrity the information they provide. This is a long leap of faith, as a breakdown can potentially occur at more than one point and involve more than one agent.

Politicians come and go but intelligence agencies remain. This fact combined with the inherent secrecy of their operation and their Cold War origins contributes to a culture where their allegiance to the global intelligence community can be as strong if not stronger than their sense of responsibility to the elected representatives of the citizens of their own country. In a country like New Zealand, which is a net consumer of intelligence, these dangers are even more acute.

New Zealand's intelligence agencies do not have the infrastructure or resources to generate the quantity or quality of intelligence data that the country requires. They are, therefore, dependent on intelligence they receive from their counterparts overseas. The SIS has a tendency towards excessive secrecy with its own material. For example, one of the items in the Choudry case that it initially refused to even identify until ordered to do so by the High Court, was a commercial street map of Christchurch. Material provided by international intelligence agencies is treated as even more confidential. The common rationale for this is that, as a country that is dependent on intelligence material from overseas, New Zealand cannot under any circumstances divulge anything about that classified material.

New Zealanders are therefore expected to make an even longer leap of faith. In the case of Ahmed Zaoui, New Zealanders are expected to trust not only their own politicians and intelligence agencies, but also those of the foreign power that provided the intelligence on Mr Zaoui in the first place – probably France, which is the only entity to have carried out an actual terrorist attack within New Zealand.

In addition to the leap of faith required, there are also the matters of the reliability of the information and the legitimacy of the methods used to obtain it. As Lord Hurd told the Scott Arms to Iraq inquiry in 1996, 'There is nothing particularly truthful about a report just because it is a secret one'. Helena Kennedy also makes the point that when information comes from foreign intelligence sources, it can be very difficult to evaluate its quality and origins, 'Torture is used, hearsay and gossip are included'<sup>6</sup>.

The reason that is given for New Zealand being required to maintain total secrecy with regard to its classified security information is that if this is not done, other countries will remove New Zealand from their intelligence-sharing networks. This, however, assumes a reciprocity and respect for New Zealand's interests which does not exist, as the US response to the nuclear ships ban and the French bombing of the Rainbow Warrior demonstrate. New Zealand was told to deny entry to Mr Zaoui not out of concern for New Zealand, but to advance the interests of the source of that information. It is not credible to suggest that they would not have pushed to prevent Mr Zaoui being allowed into

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<sup>6</sup> H Kennedy. 2004. *Just Law*. London: Chatto and Windus, p.48.



New Zealand if New Zealand had more checks and balances in place for dealing with classified security information.

## **Conclusion**

At the end of the Cold War, there was considerable talk about the prospect of a peace dividend – that the resources that had been poured into manufacturing and maintaining a massive military capability could be redeployed towards more social objectives. The New World Order that was quickly established and consummated through the first Gulf War dashed such hopes. Instead of a more just and equal and humane world, we were to have a more secure one where the overwhelming military might of the US and its allies would swiftly and decisively bring to heel any transgressor.

However, instead of security, the New World Order has seen unprecedented degrees of insecurity. The emergence of non-state entities combined with renewed incentives for groups and countries to acquire weapons of mass destruction created a capacity for extreme insecurity. The readiness of groups to inflict high civilian casualties make this threat all the more chilling.

The declaration of the War on Terror is rather like tightening the grip on a slippery pole. The tightening grip neither affects the pole nor prevents one from continuing to slide down it. Those countries engaged in the War on Terror are seeing human rights and civil liberties slip away from them through ways of operating that are yet to be proved to be an effective deterrent to terror. They are increasing the power and influence of unaccountable and repressive arms of the state, ones which the New Zealand experience has shown to be ready to use their power outside the law against citizens engaged in legitimate dissent. Nevertheless, the War on Terror has a compelling hold even over parties and populations that, in other respects, maintain a more critical perspective of the militaristic aims and strategies of the United States.

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